

UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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Feb 05, 2010

**FILED
CLERK'S OFFICE**

**IN RE: CHINESE-MANUFACTURED DRYWALL
PRODUCTS LIABILITY LITIGATION**

Builders Mutual Insurance Co. v. Dragas Management Corp., et al.,)
E.D. Virginia, C.A. No. 2:09-185)

MDL No. 2047

ORDER DENYING TRANSFER

Before the entire Panel*: Plaintiffs' liaison counsel in MDL No. 2047 moves, pursuant to 28 U.S.C. § 1407 (c), to transfer this Eastern District of Virginia action to the Eastern District of Louisiana for inclusion in MDL No. 2047. The National Association of Home Builders responded in support of the motion. Plaintiff Builders Mutual Insurance Co., defendant Firemen's Insurance Company of Washington, D.C., and third-party defendants Hanover Insurance Co. and Citizens Insurance Company of America oppose the motion to transfer.

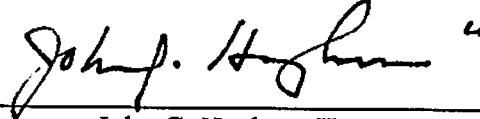
After considering all argument of counsel, we will deny the motion to transfer. This action does not share sufficient questions of fact with previously centralized actions to warrant inclusion in MDL No. 2047. Plaintiffs in the majority of the actions in MDL No. 2047 are individuals who seek relief related to property damage or personal injuries arising from drywall manufactured in China and installed in their homes. The plaintiff insurance company in the declaratory judgment action before the Panel seeks to determine its rights and obligations under a commercial general liability policy in advance of any underlying litigation filed against its insured. Resolution of this action will require interpretation and construction of multiple contracts of insurance issued by different insurance carriers. While MDL No. 2047 encompasses some insurance issues already, given that this declaratory judgment action is not related to any action pending in MDL No. 2047, transfer would not serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation. *See* 28 U.S.C. § 1407(a).

IT IS THEREFORE ORDERED that the motion for transfer pursuant to 28 U.S.C. § 1407 is denied.

* Judge Hansen took no part in the decision of this matter.

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PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written over a horizontal line.

John G. Heyburn II
Chairman

Robert L. Miller, Jr.
David R. Hansen*
Frank C. Damrell, Jr.

Kathryn H. Vratil
W. Royal Furgeson, Jr.
David G. Trager